

1 **J. Thomas Cairns, Jr., SBN 75991**  
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3 **200 North Larchmont Blvd.**  
4 **Los Angeles, California 90004**  
5 **(323) 743-8470**  
6 [jtcairns@ca.rr.com](mailto:jtcairns@ca.rr.com)

7 **Attorneys for Respondent**

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY LOS ANGELES**

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11 **ADRIAN RISKIN,** ) **CASE NO.: BS172934**  
12 ) *) [Assigned to Hon. Mary H. Strobel – Dept. 82]*  
13 **Petitioner,** )  
14 **vs.** ) **DECLARATION OF HEATHER DUFFY**  
15 **LARCHMONT VILLAGE PROPERTY** ) **BOYLSTON IN OPPOSITION TO EX**  
16 **OWNERS ASSOCIATION,** ) **PARTE APPLICATION FOR ORDER TO**  
17 **Respondent.** ) **SHOW CAUSE RE: CONTEMPT**  
18 ) **Date: October 15, 2019**  
19 ) **Time: 9:30 A.m.**  
20 ) **Dept.: 82**  
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29 I, HEATHER DUFFY BOYLSTON, declare and state as follows:

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31 1. Since in or about October, 2016, I have been the President of The Duffy Company, a  
32 California corporation. Since that time, the Duffy Company has contracted with the Larchmont  
33 Village Property Owners Association to furnish general management services for the Larchmont  
34 Village Business Improvement District (the “BID”). Between in or about 2012 and October 2016, I  
35 was a principal of H+R PR, LLC, which contracted to furnish public relations services to the BID.  
36 Since in or about October 2016, Rebecca Hutchinson and I have served as co-Executive Directors of  
37 the BID. I make this Declaration in opposition to the Ex Parte Application of Petitioner, Adrian  
38 Riskin, for an Order to Show Cause Re: Contempt. The facts stated herein are known to me  
personally and, if called as a witness herein, I could and would testify competently hereto.

1        2. The BID is a fairly small one which includes a total of 25 commercially zoned parcels along  
2 both sides of a one-block stretch of Larchmont Boulevard between 1st Street and Beverly  
3 Boulevard. This area represents the core commercial district of the Village, and includes a  
4 combination of residential, retail, restaurant, financial, and office use.

5        3. Between 2016 and the present time, the BID has operated on annual budgets of  
6 approximately \$140,000 for the purpose of providing services that the City of Los Angeles is unable  
7 or unwilling to provide including sidewalk cleaning, tree pruning, trash collection and trash bin  
8 cleaning, and related administration operations. In addition, the BID allocates a small portion of its  
9 budget to holiday decorations and merchant promotions in Larchmont Village.

10       4. The BID does not now have – nor has it ever had any employees, either full time or part time.  
11 It uses outside contractors for all of the services described above. More particularly, the BID has no  
12 administrative staff and no information technology department and has no budget for such staff.

13       5. Since on or about October, 2016, Rebecca Hutchinson and I, as Co-Executive Directors of the  
14 BID, have managed all of the day to day activities of the BID including communications with the  
15 City of Los Angeles and its agencies.

16       6. Since in or about September, 2016, the BID has received at least 6 public records requests  
17 from Adrian Riskin, the Petitioner herein. Both Ms. Hutchinson and I have devoted significant time  
18 in searching our records and in responding to those requests. I have personally spent over 25 hours  
19 of my time in searching for records responsive to those requests.

20       7. Although the BID has produced many hundreds of documents, including emails, contracts,  
21 and board minutes, I was informed in early September, 2018 that Mr. Riskin and his counsel  
22 considered our responses incomplete. Ms. Hutchinson and I went back and did additional searches  
23 of our records, working with Mr. Tom Kneafsey and members of the Association's volunteer board  
24 of directors and, on or about September 15, 2018, caused approximately 10 additional records that  
25 we thought may be responsive to be sent to Mr. Riskin's attorney, Abenicio Cisneros. A true and  
26 correct copy of Mr. Cisneros' email acknowledging receipt of those additional records is attached  
27 hereto as Exhibit "1".

28       8. On October 2, 2018, I received an email advising that Mr. Cisneros still believed there may  
be additional records that had not been produced. Attached to that email was a 3 page protocol

describing the additional searches that Mr. Cisneros wanted us to perform. A true and correct copy of that email and the attached search protocol is attached hereto as Exhibit "2".

9. In October, 2018, I performed each of the searches described in that search protocol. I did not locate any other responsive records that had not already been produced.

10. In or about June, 2019, in an effort to comply with the court's order to conduct further searches, I again performed searches for records in the manner described in the search protocol, with particular emphasis on those numbered 1.1, 1.2, 2.1, 2.2, and 3.1. I have not located any additional records responsive to Mr. Riskin's requests.

11. In or about June, 2019, I forwarded the search protocol to the members of the BID's board of directors and asked that they again search their records to see if they had anything responsive to the requests. Each of the directors have told me that they have found no such records. To my knowledge, the board members' involvement is limited to attendance at the BID's annual meetings and review and approval of the BID's annual budgets and annual Plans. To my knowledge, none of the board members (other than the President, Tom Kneafsey) have ever been authorized to communicate on behalf of the BID with the City of Los Angeles, its agencies, or anybody else.

12. To my knowledge, the BID has never had occasion to communicate with the Los Angeles Police Department, in writing or otherwise. Thus, I am not surprised that we have been unable to locate any records concerning such communications.

13. To my knowledge, the BID has had very little reason to communicate with the City of Los Angeles and those communications have dealt with submission of the BID's Annual Plans, financial statements and other matters that require City approval; as well as coordination with agencies such as the Bureau of Street Services, Department of Forestry, and the District Office of Councilman RYU to coordinate activities of the BID in Larchmont Village such as sidewalk repairs, and tree pruning, removal and replacement. Thus, I am not surprised that we have been unable to locate any additional records concerning such communications.

14. I believe that I have been very diligent in searching for and producing all records responsive to Mr. Riskin's many requests and that the BID has, in fact, produced all records in its possession that are responsive to those requests.

1           15.       It is my belief that Mr. Riskin's multiple CPRA requests and litigation have been for  
2 the purpose of harassing BIDs throughout the State and not for any legitimate purpose of public  
3 transparency.

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5           I declare under penalty of perjury that the foregoing is true and correct and that this  
6 Declaration is executed this 13<sup>th</sup> day of October, 2019 at Los Angeles, California.

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Heather Duffy Boylston

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## **EXHIBIT “1”**

**From:** Abenicio Cisneros <acisneros@capublicrecordslaw.com>  
**Sent:** Monday, September 17, 2018 5:11 AM  
**To:** Tom Cairns <jtcairns@ca.rr.com>  
**Subject:** Re: FW: Riskin v. Larchmont Village BID CPRA Petition

Tom,

Thank you for the disclosure you provided. Attached find a letter regarding the disclosure which outlines outstanding portions of the request. Please let me know if you have any questions or would like to discuss.

Best,  
Abenicio

Best,  
Abenicio Cisneros  
CApublicrecordslaw.com  
[acisneros@CApublicrecordslaw.com](mailto:acisneros@CApublicrecordslaw.com)  
(707) 653-0438

**CONFIDENTIALITY NOTICE:**

The information contained in this communication may contain confidential and/or privileged information. It is intended solely for use by the recipient and others authorized to receive it. If you are not an intended recipient you must not use, copy, disclose or take any action based on this message or any information herein. If you have received this message in error, please advise the sender immediately by reply e-mail and delete this message. Thank you for your cooperation

On Sat, Sep 15, 2018 at 2:25 AM, <[jtcairns@ca.rr.com](mailto:jtcairns@ca.rr.com)> wrote:

Abenicio,

Per my prior emails, attached are the remainder of the records.

Tom

**From:** [jtcairns@ca.rr.com](mailto:jtcairns@ca.rr.com) <[jtcairns@ca.rr.com](mailto:jtcairns@ca.rr.com)>  
**Sent:** Friday, September 14, 2018 5:19 PM  
**To:** 'Abenicio Cisneros' <[acisneros@capublicrecordslaw.com](mailto:acisneros@capublicrecordslaw.com)>  
**Cc:** '[jtcairns@ca.rr.com](mailto:jtcairns@ca.rr.com)' <[jtcairns@ca.rr.com](mailto:jtcairns@ca.rr.com)>  
**Subject:** RE: Riskin v. Larchmont Village BID CPRA Petition

Abenicio,

As promised, attached are all of the records that I believe are responsive to Mr. Riskin's requests. Most if not all of these were previously provided to Colleen Flynn, Mr. Riskin's former attorney.

Once you have had an opportunity to review these, please give me a call so we can further discuss resolution of this matter.

Best Regards,

Tom Cairns

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## **EXHIBIT “2”**

**From:** jtcairns@ca.rr.com  
**Sent:** Tuesday, October 2, 2018 4:54 PM  
**To:** 'Thomas Kneafsey'; 'Heather Duffy Boylston'  
**Cc:** 'Rebecca Hutchinson'; jtcairns@ca.rr.com  
**Subject:** RE: Confidential  
**Attachments:** List - Due diligence for Record Production - Riskin.pdf

Tom, Heather and Rebecca,

I'm working with Abenicio Cisneros, Riskin's attorney, in trying to get the CPRA lawsuit settled. We're making some progress.

Though he objected that our prior productions were, in some respects, over-inclusive, he is still not convinced that we have done a diligent inspection and produced everything requested.

I have agreed that we will make a further diligent search to see if we can find anything else.

Attached is a 3 page summary of what we have agreed to make a further search for.

Without limiting the attached summary, he is particularly looking for:

- 1) an email between the BID and the City Clerk obtained via PRA to City Clerk and attached to the Petition as Exhibits E;
- 2) the contract for the consultant used in the most recent renewal process; and
- 3) materials distributed at the May 2, 2017 BID Board meeting.

Please make a further check of your records to see if you can find anything shown on the attached. Also, please forward this email to each of the board members, asking them to do the same.

**If you can all get back to me by early next week, that would be good.**

Of course, if you have questions or want to discuss, please give me a call.

Tom Cairns

### **Request 1, Item 1**

This request calls for emails between anyone at Larchmont Village BID, either staff or Board, and anyone at lacity.org and/or lapd.online during the period of January 1, 2016, through March 31, 2017. "Between" includes emails sent to, from, cc, or bcc. The request calls for emails in native formats and is inclusive of attachments.

Thus, in order to resolve this request, please do the following:

1. Ask all BID staff and Board members to conduct a search of emails responsive to Request #1, Item 1 (i.e. emails sent to, from, cc, or bcc including either lacity.org or lapd.online for the period of January 1, 2016, and March 31, 2017) and please provide all responsive records. If any responsive records are withheld, please provide an index describing the record and citing under what statutory authority the record is being withheld.
2. Please provide a list containing the dates when each staff and/or Board member was asked to conduct the search and when each staff and/or Board member indicates that the search was completed.

### **Request 1, Item 2**

This request calls for the BID's Board Meeting minutes from 10/13/14, 10/15/15, and 10/12/16. You previously informed attorney Colleen Flynn that these minutes could not be located. This claim, however, is belied by an email you included in the recent disclosure. Specifically, the December 5, 2016, email from Erin Dolan to Rita Moreno makes reference to the October 2016 Board Meeting minutes being attached. An attachment to that email titled "1455\_001.pdf" was not included with the email disclosure. It is likely that the "1455\_001.pdf" file contains the October 2016 minutes.

Thus, in order to resolve this, please do the following:

1. Conduct another search for the Board Meeting minutes from 10/13/14, 10/15/15, and 10/12/16. This search should include a search of emails sent to the City to determine whether the minutes exist as attachments submitted to the City.
2. Locate and provide the attachment to the December 5, 2016 email from Erin Dolan to Rita Moreno.
3. Please provide a description of the search, including dates the search was conducted and what email accounts were searched.

### **Request 1, Item 3**

This request calls for the contract with the BID consultant from the most recent renewal process. That record has not been provided. However, the BID plan from 2013 indicates that it was prepared with assistance from Edward Henning & Associates.

Thus, in order to resolve this, please do the following:

1. Provide the contract between the BID and Edward Henning & Associates for creating the 2013 plan.
2. Conduct a search for any contract used by any other consultant in the BID's most recent renewal process and provide any responsive records.
3. Please provide a description of the search, including dates the search was conducted and what email accounts were searched.

### **Request 2, Item 1**

This request calls for agendas for all BID Board Meetings from January 2014 through the present (as submitted in April 2017). The most recent disclosure contained responsive records in the form of meeting agendas for the May 2014 and May 2016 Board meetings. Thank you for providing those records. However, many months of meetings are still outstanding.

Thus, in order to resolve this, please do the following:

1. Conduct a search for Board Meetings Agendas from January 2014 through April 2017, including a search of emails contemporaneous with the meetings to determine whether the agendas exist as attachments to emails sent, and provide all responsive records.
2. Please provide a description of the search, including dates the search was conducted and what email accounts were searched.

### **Request 2, Item 2**

This request calls for all emails between anyone at the BID, staff and Board member, related to the operation of the BID from October 2016. The emails provided here do not appear to fulfill this request.

Thus, in order to resolve this, please do the following:

1. Instruct each individual who was a BID staff or Board member in 2016 to conduct a search for emails from October 2016 related to the operations of the BID and provide all responsive records. If any responsive records are withheld, please provide an index describing the record and citing under what statutory authority the record was withheld.

2. Please provide a list containing the dates when each staff and/or Board member was asked to conduct the search and when each staff and/or Board member indicates that the search was completed.

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**Request 3**

This request calls for electronic copies of all materials distributed at the May 2017 Board Meeting. For reference, a Board meeting agenda for the May 2017 meeting was attached to the Petition as Exhibit L.

Thus, in order to resolve this request, please do the following:

1. Conduct a search for materials related to each and every item on the May 2017 Board Meeting Agenda and provide all responsive records. As these materials were distributed at a public meeting, there should be no withholdings subject to exemption.
2. Please provide a description of the search, including dates the search was conducted and what email accounts were searched.

**When the BID provides these records, please make it clear which request each record is being provided in response to.**

If the BID complies with the above instructions, the parties will be in a much better position to reach settlement.

Please note that due to the untailored nature of the initial disclosure, additional attorney hours were incurred in evaluating the disclosure and drafting this instructional letter. Adherence to the above instructions will ensure that no additional hours will be required on related tasks, such as hours spent drafting discovery to establish the scope and nature of the BID's search for records should the BID not provide the above requested materials.

It is my hope that the records portion of this lawsuit can be resolved promptly, leaving only the monetary portion to be resolved. Please let me know if you have any questions and thank you for your assistance with this matter.

Best,  
Abenicio Cisneros  
Attorney for Adrian Riskin